

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



August 14, 2001

Michael T. Massey
Assistant Executive Director
Piping Industry Progress and
Education Trust Fund
501 Shatto Place, Suite 200
Los Angeles, CA 90020-1786

Re: Public Works Case No. 2000-065
University of La Verne Law School
City of Ontario Redevelopment Agency

Dear Mr. Massey:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the rehabilitation and expansion of the County Building (the "Project") in the City of Ontario ("City") for use as a law school by the University of La Verne ("University") is a public work subject to the payment of prevailing wages.

Under the terms of a 1999 Disposition and Development Agreement ("DDA") between University and the Ontario Redevelopment Agency ("Agency"), Agency has conveyed to University at no cost certain improved real property located at 320 East "D" Street in Ontario, California. The property comprises approximately 256,307 square feet of land and is improved with an approximately 55,486 square-foot structure commonly known as the County Building. In return for the conveyance of the property, University has agreed to rehabilitate and expand the County Building for use as a private law school. At a minimum, this will involve the installation of new interior floors and partition walls, ceiling repair, seismic retrofitting, demolition work, lead and asbestos abatement, and plumbing and electrical work. There will also be site improvements such as resurfacing of the parking lot and new landscaping.

000424

Letter to Michael T. Massey
Re: Public Works Case No. 2000-065
August 14, 2001
Page 2

Agency purchased the property in 1997 for approximately \$1.5 million. In 1999, it was assigned an appraised value of \$1,380,000 for commercial purposes. Because of the costs associated with asbestos removal and other demolition work, the market value of the property at its highest and best use has been estimated to be between \$880,000 to \$1,045,000, depending upon the use potential of the County Building. The property will revert back to Agency for the nominal price of \$1 if University fails to operate a law school on the premises for at least ten years.

Agency has also agreed to expend up to \$1.3 million in costs incurred by University to complete the rehabilitation work on the Project, and to pay an estimated \$100,000 in City fees and permits related to the Project. University will expend its own funds on the balance of the Project construction.

Labor Code section 1720(a) generally defines public works to mean "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part with public funds."

The DDA explicitly acknowledges that the Project will involve construction carried out under contract. The Project is also paid for at least in part with public funds. Agency will contribute up to \$1.3 million toward the rehabilitation work and will pay \$100,000 to City for Project fees and permits.¹

For the reasons stated above, the Project is a public work within the meaning of Labor Code Section 1720(a) and is subject to California's prevailing wage requirements.²

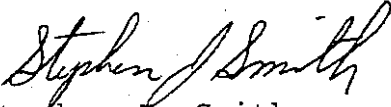
¹ This Project also involves a conveyance of property from Agency to University for less than fair market value. While not necessary for a determination in this case, it should be noted that under some circumstances the Department would find that a below-market sale of public property would constitute payment for construction out of public funds. That issue, however, must be determined on a case-by-case basis.

² University appears to have been placed on notice of the possibility of a determination finding the Project to be a public work. Section 309 of the DDA states: "University hereby acknowledges that Agency has disclosed that the California Department of Industrial Relations may determine that State prevailing wage requirements may apply to a construction project where part of the costs are paid with funds provided by a redevelopment agency."

Letter to Michael T. Massey
Re: Public Works Case No. 2000-065
August 14, 2001
Page 3

I hope this determination satisfactorily answers your inquiry.

Sincerely,

A handwritten signature in cursive script, reading "Stephen J. Smith". The signature is written in dark ink and is positioned above the printed name and title.

Stephen J. Smith
Director

000426